IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 525 of 2005

Between:

1 Ashok Jaiswal S/o.Late Kundanlal,
R/o.H.No.13-6-125, Karwan, Hyderabad.
2 Jagdish Pershad, S/o.Late Kundanlal,
R/o.H.No.13-6-125, Karwan, Hyderabad.

..... PETITIONERS

AND

1 Police Station, Asifnagar, Hyderabad.
2 B.Babu Rao, S/o.B.Rajeshwar,
R/o.12-2-647, Gunddimalkapur, Hyderabad.
3 Bansilal S/o.Babulal,
R/o.12-1-1002, Uppar Dhoolpet, Hyderabad. Hyderabad.
4 M.Sanjeeva Reddy S/o.Ramnarsimha Reddy
R/o.12-2-125, Guddiamlkapur, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of writ of Certiorari call for the records relating to proceedings under M.C.No.B/475/2000 Dt.28-6-2003 and consequential order Dt.3-1-2005 passed by the Special Executive Magistrate, Hyderabad and quash the same in the interest of justice.

Counsel for the Petitioners:MR.AHMAD MOHIUDDIN

Counsel for the Respondent No.1: GP FOR HOME

The Court at the stage of admission made the following ORDER:

The petitioners feel aggrieved by the continued attachment of the property in M.C.No.B/475/2000 on the file of the Special Executive Magistrate, Hyderabad, under Sections 145 and 146 Cr.P.C. They seek a writ of certiorari to call for the proceedings in the M.C., in particular the order dated 03.01.2005 passed therein, and to quash the same.

Heard the learned counsel for the petitioners and the learned Government Pleader for Home.

The petitioners claim rights in respect of an extent of Ac.3.04 guntas of land in survey Nos. 82,83,84 and 124 situated at Gudimalkapur village, Hyderabad. It is represented that the first petitioner and the third respondent held an agreement of sale in respect of the same and the second respondent is a GPA holder. They contend that even though there did not exist any dispute as to the possession, the proceedings under Section 145 Cr.P.C. were initiated at the instance of the fourth respondent. Their main grievance is about the continuance of the proceedings over a period of four years.

Section 145 Cr.P.C. enables an Executive Magistrate to initiate proceedings whenever he satisfied from a report of the police, or upon other information, that the dispute is likely to cause breach of peace concerning any land. Various steps are provided for in it. The purpose of these proceedings is to ensure that no threat to breach of peace exists. It is impermissible to decide the questions of possession or entitlement in such proceedings. In a given case, the Executive Magistrate may require the parties to approach a civil Court for

resolution of their disputes. It is not at all in the purport of Section 145 or 146 of the Code to continue the attachment indefinitely or for an unduly long period. This Court does not intend to express any opinion as to the relative rights of the parties over the said property. It is for them to establish before appropriate Courts.

Hence, the writ petition is disposed of directing that the proceedings initiated before the Executive Magistrate shall be disposed of finally within two months from the date of receipt of a copy of this order. There shall be no order as to costs.

14.02.2005

Note:

Issue CC in three days.

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To

1. Police Station, Asif Nagar, Hyderabad
2. Two CCs. to the G.P. for Home, High Court of A.P., Hyderabad (OUT).
3. Two CD copies.